



SO ORDERED.

SIGNED this 19th day of April, 2010.


LEIF M. CLARK
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

In re:

AGE REFINING, INC.

Debtor.

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CHAPTER 11 CASE

CASE NO. 10-50501-lmc

**AGREED ORDER: (A) CONSOLIDATING CONTESTED MATTERS;
(B) INVOKING ADVERSARY RULES; AND (C) RESETTING MATTERS FOR TRIAL**

On April 14, 2010, at 10:30 a.m. the Debtor, Overland Contracting, Inc., and Black & Veatch Corporation appeared in Court pursuant to a notice of expedited hearing set on the *Emergency Motion Pursuant to 11 U.S.C. §§ 105, 362, 363, 365, 541 and 542 to Compel Performance of Contractual Obligations and Turnover of Certain Files, Drawings and Property of the Estate from Overland Construction, Inc. and Black & Veatch Corp.* [Doc. No. 191] ("Debtor's Motion"), filed by the above-captioned debtor, as debtor-in-possession (the "Debtor"), and *Overland Contracting, Inc.'s Motion to Compel Immediate Assumption or Rejection of Executory Contract or Alternatively Establishing a Mechanism for Payment of Post-*

Petition Invoices [Doc. No. 193] ("OCI's Motion"),¹ filed by Overland Contracting, Inc. ("OCI"). As set forth on the record from such expedited hearing, the Debtor, OCI and its affiliate Black & Veatch Corporation ("B&V") and collectively with OCI and Debtor, the "Parties") agree to the entry of this Agreed Order as follows:

1. The Motions are hereby consolidated and shall be tried together as a single proceeding (the "Proceeding").

2. Part VII of the Bankruptcy Rules, incorporating the Federal Rules of Civil Procedure, are hereby invoked and shall be applicable to the Proceeding for notice, discovery and trial purposes. The Parties have been properly served with copies of the Motions and no further response is required, but is not prohibited. The Parties agree to commence discovery upon entry of this Agreed Order pursuant to Part VII of the Bankruptcy Rules under the expedited timelines as agreed upon by the Parties.²

3. The Parties shall attend mediation at a date and time set by this Court or as otherwise agreed to by the Parties. To the extent the mediation does not result in a settlement of the Motions, the Court hereby schedules a trial on the Motions to be held on Wednesday, April 28, 2010, at 9:30 a.m., before the Honorable Leif M. Clark, United States Courthouse, 615 E. Houston Street, 3rd Floor, Courtroom 1, San Antonio, Texas 78205. The Parties shall submit a joint statement of undisputed facts no later than the end of business on Monday, April 26, 2010, in the event that a trial is required to resolve the Motions.

4. To the extent any OCI or B&V invoices (and the services and materials represented by such invoices) ("Invoices") are disputed by Debtor, the trial on the Motions shall

¹ The Debtor's Motion and OCI's Motion are collectively referred to herein as the "Motions."

² The Court reserves the right to set an expedited scheduling order *sua sponte* in the event that the Parties cannot agree on expedited discovery procedures. OCI and the Debtor reserve their rights under applicable law to seek leave to conduct any necessary discovery.

be limited to the issue of whether there is a bona fide dispute. The Court shall adjudicate the amounts owed or subject to offset in a different proceeding. Except with respect to the procedural matters stipulated and agreed to by the Parties pursuant to this Agreed Order, all rights of the Parties are expressly reserved, including, without limitation, the rights and obligations of the Parties under the Contract, the adjudication of cure amounts, if any, and other obligations required to assume the Contract, if applicable. This Order may be modified upon request of a Party for good cause shown.

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AGREED TO IN FORM AND SUBSTANCE BY THE FOLLOWING:

COX SMITH MATTHEWS INCORPORATED

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**ATTORNEYS FOR THE DEBTOR AND DEBTOR-
IN-POSSESSION**